

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JEFFREY C. ARRITT,

Plaintiff

v.

Civ. Action No. 5:13cv9

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

REPORT AND RECOMMENDATION

Jeffrey C. Arritt filed his complaint against the Commissioner on January 23, 2013. The Commissioner filed her Answer and a copy of the administrative record on April 10, 2013. On May 13, 2013, the Court advised Plaintiff that Local Rule of Civil Procedure 9.02(c) provides, with regard to Social Security cases, that “[w]ithin thirty days after the defendant has filed an answer and a complete copy of the administrative record, the plaintiff shall file a Motion for Summary Judgment and Memorandum in Support setting forth his or her claim(s) for relief.” The notice sent to Plaintiff, which he accepted service of on May 14, 2013, required him to file his motion for summary judgment within thirty days. The notice further advised Plaintiff that failure to file said motion may result in dismissal of the action for failure to prosecute. More than thirty days has now passed since the notice was sent and the Court has received no filings by Plaintiff. Accordingly, the undersigned **RECOMMENDS** that the case be **DISMISSED** for failure to prosecute.

Any party may, within fourteen (14) days of receipt of this recommendation, file with the Clerk of the Court written objections identifying the portions of the recommendation objected to,

and the basis for those objections. A copy of the objections should also be submitted to the District Judge of record. Failure to timely object to the recommendation will result in a waiver of the right to appeal. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).

The Clerk of the Court is directed to send a copy of this Order to the *pro se* plaintiff certified mail, return receipt requested, and all other counsel of record as applicable.

DATED: June 19, 2013

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE